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EXAMINER

TRAN, LOUIS B

| ART UNIT | PAPER NUMBER |
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3721

DATE MAILED: 06/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/926,736

Applicant(s)

STERN, RAN

Examiner

Louis B Tran

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 17-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 17-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is in response to applicant's amendment, Paper No. 11, received on 12/29/03.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 8 and 14 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claims 8 and 14 recites the limitation "normal" in line 4 of the claims. There is insufficient antecedent basis for this limitation in the claim. No range has been defined and therefore the scope of a "normal" width is unclear.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wild (5,868,658) in view of Yoshida (4,762,514) and Official Notice (previously established) in further view of Heller Jr. et al. (3,459,625).

With respect to claim 1, Wild discloses the invention substantially as claimed including the method of making a beverage container constructed from at least two panels of flexible laminate web material, at least a first panel thereof having an outer structural layer, a barrier layer and an inner sealant layer 1a-c, said method comprising the steps of punching a hole through all the layers of said first panel and supplementing said inner sealant layer with a dry sealant 2 but does not show supplementing said inner sealant layer with molten sealant applied by extrusion coating, along the entire outer surface of said sealant layer, thereby occluding said hole, said molten sealant supplement functioning as the equivalent of a closure sheeting patch, cooling said first panel and joining said panels to thereby form a drinking pouch(as in claim 1).

However, Yoshida teaches the use of supplementing said sealant layer with molten sealant 4 applied by extrusion coating, along the entire outer surface of said sealant layer, thereby occluding said hole 11, said molten sealant supplement functioning as the equivalent of a closure sheeting patch as seen in Figure 7 for the purpose of bonding films as in column 3, line 19.

Therefore, it would have been obvious to one having ordinary skill in the art to provide a step of utilizing extruded molten sealant instead of a dry sealant which is later heat sealed in order to increase production speed.

Moreover, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide an extruded laminate layer instead of a dry laminate layer since the examiner has taken Official Notice (in the previous two office actions) of the equivalence of extruded layers and dry layers (item 2 in Wild) for their

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use in the packaging art and the selection of any of these known equivalents to provide a layer to cover an aperture would be within the level of ordinary skill in the art.

With respect to claim 1, Wild does not specifically show cooling said first panel and joining said panels; however, Heller Jr. et al. teaches the well known method of cooling panels after extrusion as in column 5, line 28 for further processing.

Therefore, it would have been obvious to one having ordinary skill in the art to provide cooling after an extrusion step for further processing.

Yoshida does not specifically show the final thickness being 80-90 microns or in which said sealant layer is provided at half its final thickness.

However, Yoshida does show an inner layer 5 being 10-120 microns.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select a specific final thickness and inner layer thickness, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

With respect to claim 2, Yoshida shows said extruded molten sealant is extruded molten polyethylene for the purpose of bonding films as in column 3, line 19.

With respect to claims 3 and 4, Yoshida shows joining panels to thereby form a drinking pouch, the steps of conveying the bottom sheeting web in the conveying direction between the front and rear side sheeting webs, and welding the bottom sheeting web in part to the front and rear side sheeting webs as in column 3, lines 55-65.

7. Claims 5-7, 9-13, 15, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshida (4,762,514) in view of Huizinga (5,001,325).

With respect to claim 5, Yoshida shows a method of producing a container made out of flexible laminate web material, comprising using a directed laser source 22 to provide a puncture point on a surface of said web material at the intersection of at least two beam paths across said web material seen in Figure 11.

Yoshida does not specifically show a movable laser conducting two laser passes over the same point by double scoring.

However, Huizinga teaches movable laser for laser scoring of packaging material dependant on a pattern dependant signals for the purpose of enabling easier package opening as described in column 1, line 14.

It would have been obvious for one having ordinary skill in the art to produce the pattern seen Yoshida by using a movable laser to create double scoring for easier opening.

With respect to claim 6, Yoshida shows a method wherein said puncture point is formed by the intersection of at least three laser score paths as in Figure 1.

With respect to claim 7, Yoshida shows a method wherein said intersection of laser score paths is provided against a highlighted background area on said web material.

With respect to claim 9, Yoshida shows adjusting the energy and the speed of the laser beam to achieve the effect of a beam in the range of 2.5 to 3.5 joules as in column 5, line 31.

With respect to claim 10, Yoshida shows adjusting the laser beam energy by changing the distance between a surface and said directed energy source as in column 5, lines 32-42.

With respect to claim 11, Yoshida shows wherein said highlighted area is a dot as seen in Figure 1.

With respect to claim 12, Yoshida shows a container made out of flexible laminate web having a focal weakness comprising intersecting laser score paths, provided for insertion of drinking straw.

With respect to claim 13, Yoshida shows a container wherein said intersection of laser score paths is provided in a highlighted area on said web material.

With respect to claim 15, Yoshida shows a container comprising a dot on the outer side of the front side of the bag, in order to enable a child to know where is the exact place which should be pierced by the straw.

With respect to claim 18, Yoshida shows a container made from at least two panels of flexible laminate web material, at least one of said two panels of flexible laminate web material having a structural layer 20, and a barrier layer 6, said structural layer and said barrier layer having a hole passing there through as in Figure 10 A, and further having an extruded sealant layer 4 applied onto a barrier layer 3 and occluding said hole passing through said barrier layer and said structural layer as seen in Figure 3.

With respect to claim 19, Yoshida shows a sealant layer 2 applied onto said extruded sealant layer 4.

8. Claims 8 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshida (4,762,514) in view of Huizinga (5,001,325).

Yoshida teaches the use of using and adjusting energy of a beam but does not specifically state that a beam containing 3-4 times the energy used in normal scoring treatment is used.

However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a working range of 3-4 times energy typically used, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233. Moreover, Yoshida teaches that such adjustability is obvious in column 5, lines 33-42.

Therefore, with respect to claim 14, Yoshida does not specifically state that the width of the laser score path is 3-4 times wider than normal, thereby providing a larger focal weakness.

Again, optimization of the range of laser score width is within the grasp of one of ordinary skill in the art. *In re Aller*, 105 USPQ 233

9. Claims 20 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wild (5,868,658) in view of Yoshida (4,762,514).

Wild discloses the invention substantially as claimed including a method of making a beverage container comprising covering punched holes by forming a sealant layer 2 as seen in Figure 5 but does not show using extrusion lamination, said entire width of sealant layer comprised of two layers, a molten adherence layer and a solid

layer, said adherence layer spread uniformly on to the sheet thereby occluding the entire surface of the front side web including said holes, said outer layer placed unto said adherence layer during the production process, using said adherence layer as an adhesive in order to stick the web together.

However, Yoshida teaches the use of extrusion lamination, said sealant layer comprised of two layers, a molten adherence layer 4 and a solid layer 5, said adherence layer spread uniformly on to the sheet thereby occluding the entire surface of the front side web including said holes, said outer layer placed unto said adherence layer during the production process, using said adherence layer as an adhesive in order to stick the web together as seen in Figure 7 of Yoshida (as in claim 20), in which the punched holes are covered by said sealant layer, the width of said entire sealant layer comprised of said molten adherence layer and said solid outer layer (as in claim 17) for the purpose of reinforcement as in column 3, lines 15-25.

Therefore, it would have been obvious to one having ordinary skill in the art to provide Wild with a specific sealant layer configuration in order to establish further reinforcement.

Conclusion

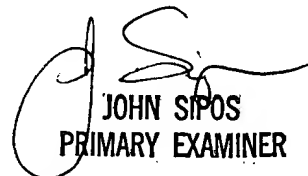
10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant's remarks have been fully considered but are deemed moot in view of the new grounds of rejection.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis B Tran whose telephone number is 703-305-0611. The examiner can normally be reached on 8AM-6PM Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on 703-308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


JOHN SIPOS
PRIMARY EXAMINER

lbt